

State of South Dakota

EIGHTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2013

842U0382

SENATE BILL NO. 37

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the insurance fraud
2 prevention unit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 58-4A-4 be amended to read as follows:

5 58-4A-4. In order to investigate and prosecute activities involving fraudulent insurance acts,
6 the ~~director of insurance~~ attorney general shall employ a sufficient staff to be known as the
7 insurance fraud prevention unit which shall include a minimum of one clerical employee, one
8 investigator, and one attorney.

9 Section 2. That § 58-4A-5 be amended to read as follows:

10 58-4A-5. The insurance fraud prevention unit may prosecute fraudulent insurance acts
11 through criminal or civil proceedings. The attorney general may appoint the insurance fraud
12 prevention unit attorney as an assistant attorney general for purposes of prosecuting cases of
13 fraudulent insurance acts. The unit attorney may have all the powers attributed to the insurance
14 fraud prevention unit in § 58-4A-3. ~~Prosecution may not proceed unless the director and the~~
15 ~~attorney general are consulted and give their written approval.~~ The unit attorney, after



~~consultation with and approval by the director and the attorney general,~~ may refer or request assistance from other persons delineated in subdivision 58-4A-1(3) for the prosecution of fraudulent acts, including access to records. All costs associated with the prosecution of fraudulent insurance acts, including those incurred by designees assisting or acting on behalf of the insurance fraud prevention unit, may be paid by the insurance fraud prevention unit fund.

Section 3. That § 58-4A-6 be amended to read as follows:

58-4A-6. The insurance fraud prevention unit investigators may investigate violations of this chapter. The unit investigators shall be qualified pursuant to the requirements of §§ 23-3-41, 23-3-42, and 23-3-44 and have all the powers and authority of law enforcement officers while performing duties pursuant to this chapter. The insurance fraud prevention unit, ~~after consultation with and written approval by the director and the attorney general,~~ may refer or request assistance from persons delineated in subdivision 58-4A-1(3) for the investigation of fraudulent insurance acts, including access to records. All costs associated with the investigation of fraudulent insurance acts, including those incurred by designees assisting or acting on behalf of the insurance fraud prevention unit, may be paid by the insurance fraud prevention unit fund.

Section 4. That § 58-4A-7 be amended to read as follows:

58-4A-7. If the insurance fraud prevention unit or its designees initiate civil action against any person and that person is found by a court of competent jurisdiction to have committed a fraudulent insurance act as set forth in § 58-4A-2, that person is subject to a civil penalty not to exceed five thousand dollars for the first violation, ten thousand dollars for the second violation, and fifteen thousand dollars for each subsequent violation. Civil penalties paid under this section shall be deposited in the insurance fraud prevention unit fund. An action under this section may be in lieu of criminal prosecution under the laws of this state ~~and may not be commenced until after consultation with and written approval by the director and the attorney~~

1 general.